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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

BRUD ROSSMANN,

Plaintiff,

v.

ELAINE DUKE, *et al.*,

Defendants.

Case No. 2:17-cv-02953-MMD-VCF

ORDER ADOPTING AND ACCEPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
CAM FERENBACH

Before the Court is the Report and Recommendation of United States Magistrate Judge Cam Ferenbach (ECF No. 38) ("R&R") relating to Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) and complaint (ECF No. 1-1). Plaintiff had until December 26, 2017, to file an objection. To date, no objection to the R&R has been filed.¹

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See

¹The last two documents that the Court mailed to Plaintiff (Advisory Letter (ECF No. 2) and R&R (ECF No. 3)) were returned as undeliverable. (ECF Nos. 4, 5.)

1 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard
2 of review employed by the district court when reviewing a report and recommendation to
3 which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
4 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
5 view that district courts are not required to review "any issue that is not the subject of an
6 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
7 the court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F.
8 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
9 which no objection was filed).

10 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
11 determine whether to adopt Magistrate Judge's R&R, recommending dismissal for lack
12 of jurisdiction. Upon reviewing the R&R and records in this case, this Court finds good
13 cause to adopt the Magistrate Judge's R&R in full.

14 It is therefore ordered, adjudged and decreed that the Report and
15 Recommendation of Magistrate Judge Cam Ferenbach (ECF No. 3) is accepted and
16 adopted in its entirety.

17 It is ordered that this case is dismissed for lack of jurisdiction.

18 It is further ordered that Rossmann's application to proceed *in forma pauperis*
19 (ECF No. 1) is denied as moot

20 DATED THIS 8th day of January 2018.

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23 MIRANDA M. DU
24 UNITED STATES DISTRICT JUDGE
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